

REGULAR MEETING DES MOINES CITY COUNCIL

MINUTES

June 12, 2008

The regular meeting of the Des Moines City Council was called to order at 7:33 p.m. by Mayor Sheckler in the Council Chambers, 21630 11th Avenue South #B.

PLEDGE OF ALLEGIANCE to the Flag was led by Councilmember Kaplan.

ROLL CALL - Present: Mayor Bob Sheckler, Mayor Pro Tem Dan Sherman, Councilmembers Dave Kaplan, Ed Pina, Carmen Scott, Scott Thomasson and Susan White. Also in attendance were City Manager Tony Piasecki, City Attorney Pat Bosmans, Parks & Recreation Director Patrice Thorell, Land Use Planner II Jason Sullivan and City Clerk Denis Staab.

COMMENTS FROM THE PUBLIC

Chris Placentra, Gig Harbor

Mr. Placentra informed Council that he works locally and is interested in some residential developments in Des Moines. He questioned, given the current real estate market, whether Council would consider the concept of recording small divisions within subdivisions that have already been approved. He noted that there apparently is not a mechanism in the City's Code that would allow this to be done. He requested Council consider allowing portions of large subdivisions to be developed in small phases. He advised that he has raised this question with staff who have told him they would need direction from Council.

City Manager Piasecki noted that with large a approved subdivision the up front costs to do all the improvements can be quite great. He noted Mr. Placentra is trying to find a mechanism that would allow a phasing, where not all the improvements are done, but the lots can be subdivided, built and money can be made that will then help finance the next part of the subdivision. He noted under our current code when an applicant gets a preliminary plat, they must go in and complete all of the improvements, come back to Council for a final plat, and then Council must determine if all of the requirements of the subdivision were met, including all the improvements. If the answer is yes, then they can record the subdivision and start selling lots. He advised that on occasion, the City has allowed some small amount of the improvements that have not been done, but will be before the homes start to go in, then you have the developer bond for those improvements. He stated this is risky for the developer. He stated whether what Mr. Placentra is asking for could be applied to some preliminary subdivisions that currently exist, he would have to ask the City Attorney to research the idea.

Councilmember Thomasson felt this idea should fall under the Zoning Code update for consideration. He noted with most of the subdivisions Council has seen where there is a single drainage pond, they have open space tracks and wetlands, along with connecting streets, he cannot think of a single one that would lend itself to phasing.

Councilmember Scott advised she understands the issue of not being able to risk building 20-40 houses right now, and would like staff to offer suggestions as to how this could be made feasible, if it is feasible.

Councilmember Kaplan expressed agreement that this should be included as part of Council's discussions relative to the Zoning Code.

Councilmember Pina concurred with previous comments.

Nick Schoen, 20203 9th Avenue South

Mr. Schoen informed Council that he is speaking on behalf of his wife, neighbors and other concerned citizens. He expressed concern over The Bean Express coffee stand, located in the Big Catch Plaza, specifically the female baristas working there wearing bikinis and other sexually suggestive costumes/attire. He noted they question the legality of this conduct and in consideration of health code regulations wondered if there may be some violations. He advised that this business model of services is in conflict with the goals of the City Council to "reserve and enhance the livability of the City", and undermines the Council's Mission statement "that the services in the community reflect the pride and values of Des Moines". In conclusion he noted at best this is a distraction from the goals of the City and at worst, it conflicts with the sense of pride and livability we should enjoy. He asked how does this benefit the City, how does Council perceive this matter and what can be done to stop this type of service in our community?

BOARD & COMMITTEE REPORTS & COUNCILMEMBER COMMENTS

Farmer's Market

Councilmember Scott reported the opening day of the Farmer's Market was held last Saturday, along with the dedication of the new Art Mural "Spirit of Des Moines". She invited everyone to come to the Farmer's Market which will be held every Saturday from 10 a.m. to 2 p.m. through the summer.

Farmer's Market & More

Councilmember Kaplan noted besides the Farmer's Market, other events at the Marina included Washington State's Strongest Man Competition and Safety on the Sound. He suggested there is a variety of activities and happens at the Marina and encouraged everyone to check it out.

Public Safety & Transportation Committee

Councilmember Kaplan advised that the Committee met earlier this evening. Topics of discussion included: Comprehensive Transportation Plan, 6 Year Transportation Plan and Des Moines Creek Business Park Transportation Improvements. He noted citizens are invited to share thoughts regarding transportation improvements which includes more than vehicles, such as bike routes, pedestrian improvements, trails, etc. He stressed the importance of citizen input into the process and they should contact Transportation Engineer Dan Brewer.

Port of Seattle Annual Meeting

Councilmember White reported attending the annual meeting last week and was part of the first group that actually taxied down the 3rd runway on a bus. She acknowledged the hard work of the Airport Communities Coalition and interested citizens for making sure the work was done correctly.

Senior Citizen Advisory Committee Meeting

Councilmember White advised that this afternoon she attended a Committee meeting. She reported that through sales of cheese cakes at last Saturday's Farmers Market the Committee raised \$800.00 for the Senior Center. She noted the Legacy Foundation donated funds to help

provide for a Dental Van for low income seniors and has been very successful. She advised the Committee is working on a program called "Elder Watch" and would like to brief Council at an upcoming meeting on the new program.

Arts Commission

Councilmember White reported attending a meeting yesterday and stated what they have accomplished in just one year, along with their future goals, is outstanding.

Anita Corby, Arts Commission member, stated "a city without art is a City without heart" and requested Council's continued financial support.

King County Historic Preservation Program

Councilmember White advised Council that the Program is looking at placing the Des Moines' Field House on the National Historic Register.

Highline Community College - Marine Science & Technology Center (MaST)

Councilmember White reminded everyone the opening of the Center is set for Monday, June 16th at 10 a.m.

Municipal Facilities Committee Meeting

Mayor Pro Tem Sherman advised a Committee meeting was held on June 6th. Discussion included the Dining Hall foundation as to what types of foundation should be used. He noted that Washington State is trying to come up with alternatives for a number of State Parks and Saltwater State Park is included. The State inquired whether Des Moines wanted an option to actually take over the Park. Other alternatives included eliminating camp sites or maintain as is. He noted that the Committee advised the State that while financially the City is not interested in taking over the Park, we may be interested in managing it for a fee, if they install some of improvements such as bulkhead improvements. He concluded by noting the Committee also discussed Marina dredging, and the Des Moines Creek Trail project staging.

Human Services Advisory Committee Meeting

Mayor Pro Tem Sherman reported attending a Committee meeting today. He noted one of the long term members of the Committee has resigned as she is moving out of the City. He noted almost 2 dozen agencies are requesting funding for next year, in an amount of almost \$172,000. He noted last year the City budgeted \$69,700 and the group members have requested Council to make a funding decision for 2009 as early as possible.

City Manager Piasecki commented staff does not have enough information about next year's revenues and expenses in order to provide a comfortable recommendation for a figure any more than last years amount, plus some kind of inflation factor. He advised staff needs at least 6 months worth of financial information before they can make any predictions.

Councilmember Kaplan felt it is important to offer them a dollar amount relatively early on, so he proposed the amount for 2009 Human Services funding be \$75,000.

Councilmember Thomasson noted he would have supported this years amount of \$69,000 plus cost of living.

City Manager Piasecki advised the cost of living is around 3.5 which would bring the total to somewhere around \$71,500.

Mayor Pro Tem Sherman noted that the last policy of the Council, which Council has not kept to in the last few years, was 1% of the General Fund, which works out to around \$160,000 and he pointed out is close to the request Human Services would like to have. He stated the Human Services did get cut when the City's revenues went down, however he pointed out the City continues to give money to other things, such as tonight's consent calendar for the Mt. Rainier Track. He felt the Human Services needs are much more important for people who may be down on their luck, having trouble and need help. He advised he would appreciate any help Council can give.

Councilmember Thomasson suggested to avoid them having to reprioritize again this year, to offer Human Services the same as last year, then if we have more money they can look at how they would prioritize any extra items.

Councilmembers Pina and Scott, and Mayor Sheckler expressed support of using last years budgeted amount, plus inflation (about 3.5%).

Mayor Pro Tem Sherman informed Council that he has asked the Committee to bring back information as to what other cities in South King County are spending on Human Services on a per capita basis so Council can see where Des Moines' stands on this issue.

Salt Water State Park

Councilmember White advised that she remembers discussions about 3 years ago about the possibility of taking over the Park and it seemed like it could have been a beneficial thing for economic development for the City. She expressed concern with the Municipal Facilities Committee just saying no outright without hearing more information.

Mayor Pro Tem Sherman advised that the State was going to present an option during its public presentations, as part of its Master Plan process, for the City of Des Moines to take over the Park.

City Manager Piasecki reported staff was approached by the State last week, to inform us they are going through a process to determine what they are going to do with the Park. He noted they had a variety of options and one included the City either taking ownership and running it, or being a contractor. They wanted to know, as part of a public workshop they are doing next week, if the option of the City doing either one of those could be put on the table. He advised staff informed them exactly what Mayor Pro Tem Sherman said, that contracting as a manager we would be willing to consider that, but an owner, since we had such a short time frame, did not appear to be an option. However, he pointed, the matter is not "dead". If a study comes back and says it would work, and staff brings it to Council and Council decides they want to go ahead and do it, then we can. He asserted the State is just in the preliminary stages of looking at what they are going to do. He felt we will have another opportunity to discuss it.

Councilmember Pina commented that Council just finished a discussion on helping the needy and we are having a hard time coming up with funds for that. He noted the Park is an expensive thing to run, and the State runs it. He questioned why we would want to take it over.

Mayor Sheckler noted this is not the time to be debating this issue. He advised he will bring the subject back at a later time for consideration and discussion.

PRESIDING OFFICER'S REPORT

Art Mural - "Spirit of Des Moines"

Mayor Sheckler wished to publicly acknowledge Gary Hisel for the motivation and idea behind the creation of the Art Mural recently installed at South Park in the Marina. He encouraged everyone to thank Mr. Hisel as being the one to push for the Mural installation.

ADMINISTRATION REPORTS

RCAA Presentation

City Manager Piasecki apologized for this item being listed on tonight's Agenda. He advised this item is actually scheduled for June 26th.

Assistant City Manager Position

City Manager Piasecki introduced his new Assistant City Manager Lori Erickson, and noted she will be starting on July 21st.

Des Moines Court Prosecutor

City Attorney Bosmans introduced Tim George, who recently passed his Washington State Bar Exam and announced he is the City's official City Prosecutor.

Police Department - Strategic Plan Update

City Manager Piasecki advised he has placed a copy of the Police Department's 2008 version of their Strategic Plan Update in Council's boxes.

Ribbon Cutting - 16th Avenue South Project

City Manager Piasecki reminded Council that the ribbon cutting ceremony is schedule for June 23rd at 1:30 p.m. in front of the Woodmont Elementary School.

Police Guild Contract

City Manager Piasecki noted that he has placed a copy of the Guild Contract in Council's boxes, which is on tonight's Consent Calendar for approval. He noted a minor change has been made to one of the Sections.

CONSENT CALENDAR was read by City Clerk Staab.

1. Motion is to approve the special minutes of April 26, and the special and regular minutes of May 22, 2008.
2. Findings: Vouchers audited and certified by the auditing officer as required by RCW 42.24.080, and those expense reimbursement claims certified as required by RCW 42.24.090, have been recorded on a listing which has been made available to the City Council.

Motion: As of this date the Des Moines City Council, by unanimous vote, does approve for payment those vouchers and payroll transfers included in the above list and further described as follows:

Claim checks #114527 through #115758 & electronic fund transfers in the total amount of \$1,392,392.12

Payroll fund transfers in the total amount of \$411,010.20

~~3. Draft Resolution No. 03-107 – Title: A Resolution of the City Council of the City of Des Moines, Washington, fixing a time for a public hearing to consider vacation of a portion of public right-of-way in the City of Des Moines.~~

~~MOTION is to approve Draft Resolution No. 03-107 setting a Public Hearing for July 10, 2008.~~ [ED NOTE: Item pulled by Councilmember Pina]

~~4. Draft Resolution No. 08-143 – Title: A Resolution of the City Council of the City of Des Moines, Washington, authorizing the City Manager to submit a grant application to the Recreation and Conservation Funding Board (CFB) pursuant to chapter 79A.25 RCW for the funding of the Des Moines Creek Trail Project.~~

~~MOTION is to approve Draft Resolution No. 08-143.~~ [ED NOTE: Item pulled by Councilmember Thomasson]

~~5. Motion is to approve \$17,497.92 in additional spending authority for project scope changes to the consultant agreement with INCA Engineers, Inc. for the Des Moines Creek Trail Project; bringing the total design contract amount to \$230,176.77, inclusive of the previously authorized 10% contingency.~~ [ED NOTE: Item pulled by Councilmember Thomasson]

6. Motion is to accept the donation of the mural artwork "Spirit of Des Moines", valued at \$40,000, by artists Anita Corby and Katherine Caughey to the City of Des Moines.

~~7. Motion is to remand to the Finance & Economic Development Committee the review of the need for and possible options to fund a Des Moines Art Commission Public Art Program.~~ [ED NOTE: Item pulled by Mayor Pro Tem Sherman]

~~8. Two Motions:~~

~~—A. Motion is to approve the allocation of \$12,000 funds from the MCI unrestricted balance for the Highline School District Mt. Rainier High School Track Project, and~~

~~—B. Motion is to approve the Draft Interlocal Agreement between Highline School District and the City of Des Moines for the use of the Mt. Rainier High School Track, and authorize the City Manager to sign the agreement substantially in the form as submitted.~~

[ED NOTE: Item pulled by Mayor Pro Tem Sherman]

9. Draft Resolution No. 08-144 - [ASSIGNED NO. 1075] Title: A Resolution of the City Council of the City of Des Moines, Washington, adopting an agreement between the City of Des Moines and the Des Moines Police Guild regarding wages, hours and working conditions for the period January 1, 2008 to December 31, 2010.

MOTION is to approve Draft Resolution No. 08-144.

10. Motion is to authorize the City Manager to accept the purchase agreements with Data911 for the purchase of mobile data computers in the total amount of \$176,440.01.

11. Draft Resolution No. 08-126 - [ASSIGNED NO. 1076] Title: A Resolution of the City Council of the City of Des Moines, Washington, authorizing the Puget Sound Bicycle Racing Club to conduct a bicycle race event in Downtown Des Moines on June 29, 2008, to be called the "2008 Des Moines Bike Criterium", and listing conditions under which the authorization is granted.

MOTION is to approve Draft Resolution No. 08-126.

The following Consent Items were pulled from the Calendar:

- #3 - Removed by Councilmember Pina
- #4 and #5 - Removed by Councilmember Thomasson
- #7 and #8 - Removed by Mayor Pro Tem Sherman

Mayor Pro Tem Sherman remarked that his favorable vote for approving the remaining Consent Calendars will not include item #9.

In regards to Consent Item #11, Councilmember Kaplan thanked City Manager Piasecki for his efforts regarding the Police Guild Contract, and thanked the Police Guild for being reasonable in their negotiations.

MOTION was made by Councilmember White, seconded by Councilmember Kaplan, to approve the Consent Calendar as amended, and passed unanimously.

REMOVED CONSENT CALENDAR ITEMS

Consent Item 3 - Draft Resolution No. 03-107 [ASSIGNED NO. 1077] Setting a Public Hearing for a Street Vacation

Councilmember Pina questioned why we would be vacating South 201st Street.

City Manager Piasecki pointed out that is a proper question to ask during the Public Hearing. He noted all the motion does is set the Hearing for July 10th.

Councilmember Thomasson noted the resolution implies that there was a petition for this vacation. He felt the resolution should contain language that we received a petition, instead of being City initiated. Also if this was by a petition he has no way of knowing its sufficiency. He also felt there should be a better neighborhood map.

CIP Project Manager Romano informed Council that the Vacation request was by petition and does have the required signatures of 100% which includes the owner and Highline School District. He noted the Vacation does abut the Elementary School property.

City Attorney Bosmans reported that the approval document will reflect this was a Vacation by the petition method. However, the resolution tonight is only setting the Public Hearing.

MOTION was made by Councilmember Thomasson, seconded by Councilmember Pina, to approve Draft Resolution No. 03-107. Motion passed unanimously.

Consent Item #5 - Consultant Agreement with INCA Engineers for Des Moines Creek Trail Project, and Consent Item #4 - Draft Resolution No. 08-143 [ASSIGNED NO 1074] - Authorize Application for Funding Des Moines Creek Trail Project

Councilmember Thomasson noted that Attachment B is two Work Order Assignments that have money allocated but there is no description of the work to be performed, therefore in his opinion, is incomplete. He further noted that it adds money to money already authorized by Council, and he does not remember if this was a Work Order Assignment or an outright Consultant Contract that the City authorized. In looking at the amount, he felt it is a Contract that the Council authorized, so we should really be supplementing an existing Contract and not using a Work Order Assignment. In regards to funding, he noted we have a 2008-2013 Improvement Plan and some of the Agenda Item talks about some of the funding coming from the Marina, and usually if we are intending to change the approved CIP, then included in the motion is direction for the next budget amendment to make that change, but it is not shown that there are any changes. He felt this item needs to be re-worked and brought back to Council addressing the budget and funding issues, and further bringing the right contracts for Council's approval. Therefore he cannot support this item as presented.

Parks and Recreation Director Thorell advised that the Contract with INCA was part of an interview process, not part of a work order process. She noted this interview was conducted about two years ago, and that the Consultant Contract Agreement did come before Council, and was authorized by Council. She stated that this request is amendments to the original agreement, because it falls outside of the 10% contingency contained in the agreement.

Upon questioning, Parks and Recreation Director Thorell advised that the original plan was to route the Trail up Cliff Avenue South, however during discussions it was determined by the Municipal Facilities Committee not to pursue this alignment, but rather to align it through the Marina. In reassessing and reorganizing the design through the promontory, which had not been included in the original scope, nor was a railing, but it is included in the 2008 CIP, and it is a very urgent need for the project. She pointed out that we currently have money budgeted in the CIP, with the majority of the money coming from Federal and State grants. She noted we have applied for an additional Recreation and Conservation Funding Board Grant which is the Resolution contained in Consent Item #4, to match the funds in the amount of \$500,000. She advised that the City needs additional money to do any of the Trail Project, including paving. She reminded Council that the original project that we applied for when we applied for the Federal appropriation was to complete the Trail from the Sewer District property, to the downtown. She also advised that the maintenance issues were included in the request for appropriation.

In regards to Consent Item #4, Councilmember Thomasson noted Council has not been furnished with a copy of the grant application to know what it is we are asking for funding for.

Parks and Recreation Director advised this is basically a house keeping issue, and in the CIP we have a short fall of funds because we did not have an adequate amount of REET monies. She noted the grant application is specifically the designs that have been before the Municipal Facilities Committee, the alignment of the Trail from the Midway Sewer District treatment plant to the turn around, through the Des Moines Beach Park, through the promontory, in front of the Wasson home, including the wall, and then from the corner of Cliff Avenue and the entrance of the Park, connecting up to the north seawall in the north parking lot of the Marina.

MOTION was made by Councilmember White, seconded by Mayor Pro Tem Sherman, to approve \$17,497.92 in additional spending authority for project scope changes to the consultant agreement with INCA Engineers, Inc. for the Des Moines Creek Trail Project; bring the total design contract amount to \$230,176.77 inclusive of the previously authorized 10% contingency. [ED NOTE: Consent Item #5]

Councilmember Thomasson advised he will vote against the motion because it is not in the right form for amending the contract, and what is contained in Council's packet does not define what the work is.

Upon questioning, Parks and Recreation Director Thorell confirmed that a link or stairs to the Marine View Drive Bridge is not part of this project.

Mayor Pro Tem Sherman stated it is really important to him at this time for the gravel road from the Sewer District property to the turn-around to be asphalted and completed. However, he realizes the Parks and Recreation Director had specifically requested the funding of the \$500,000 from the Federal Government, to leverage what we are doing to develop some connection from

the Marina to downtown. He noted the Federal funding was only given due to the potential in assisting economic development.

Councilmember Kaplan noted he has only seen a conceptual drawing of where the Trail is suppose to go, therefore he is taking this on faith that certain commitments were made necessary to obtain some of the funding, while we are spending money to continue the Trail without having completed, what in his opinion was the basis for the Trail to begin with, which is just completing the paving of the Trail. He noted we are now being asked to spend another \$17,500 for design work, not construction, on an additional piece. He felt that there needs to be a clearer delineation between the projects, and if it is a complete project in phases, then it needs to be better communicated to Council so that we are not left wondering where one project starts and the next project stops. He stated that is why he will have to vote no on this issue.

City Manager Piasecki advised that the approval of this contract change is not absolutely critical. If Council wants to staff to go back and provide a more detailed description of the change order and a map, staff can do that. He noted for the last CIP and the way we have gone to D.C. asking for funding on this project, has always been from the Treatment Plant all the way to downtown. He felt if anything it has been scaled back a little bit, as far as its extent, but in regards to the grant for the funds, we need that to be approved tonight or else it cannot go forward.

VOTE ON MOTION: Motion passed 5 to 2 with Councilmembers Kaplan and Thomasson opposed.

In regards to Consent Item #4, Councilmember Thomasson noted Council is being asked to authorize the City Manager to sign a Grant Application that Council has not seen. He advised he will oppose this as Council does not know what we are committing to in terms of where a project starts and stops, and we do not know what is or is not included in the Grant.

MOTION was made by Mayor Pro Tem Sherman, seconded by Councilmember White, to approve Draft Resolution No. 08-143, authorizing application to the Recreation and Conservation Funding Board pursuant to chapter 79A.25 RCW for the Des Moines Creek Trail Project. [ED NOTE: Consent Item #4]

Mayor Pro Tem Sherman noted he is not happy about the way this has occurred, he is eager to see the asphalt and feels this will get us one step closer. He would like to see the project started by July 2009 and completed by September 2009.

Councilmember Kaplan commented he can support the application for the Grant, because even though we are doing this in phases, we are going to need the money. He felt in particular with the Trail going through the Marina, it will be helpful to have all the funds necessary to move the project along.

Councilmember Scott felt Council is being asked to vote on something where elements of the project only came to a Council Committee and should have made their way to the whole Council. She advised she will support the motion, but would prefer a more thorough briefing to the whole Council before showing up on a Consent Calendar.

Parks and Recreation Director informed Council that no formal decisions have been made regarding the design of the supporting wall, and that information will come back to Council as a whole.

VOTE ON MOTION: Motion passed 6 to 1 with Councilmember Thomasson opposed.

9:05 p.m. Mayor Sheckler called for a 10 minute break.

Consent Item #7 - Remand to Finance & Economic Development Committee: Review of Need & Possible Options for Public Art Program

Mayor Pro Tem Sherman noted he wants to know what is being recommended and if it is even worth sending to Committee.

City Manager Piasecki informed Council that the Art Commission is looking for some kind of a program, such as a 1% for the Arts in the CIP or \$2 a head built into the Budget. He noted they just want to explore other ways of funding the Arts.

Councilmember Thomasson stated that last year when Council worked on the budget some items were at a Committee level. He noted he does not like the piece meal idea of sending pieces of the budget to Committees. He felt if we are going to make Committee assignments for the Budget, it should be done in one swoop and list all of the Budget assignments that go to every Committee. He advised when Council initiated the Art Commission it was given a one time stipend as start-up money and the theory was they would be somewhat self-supporting. He would prefer this item be dealt with as a Committee of the Whole as part of the Budget process and not be sent to a Committee. He noted in the end it still has to fit in the "shopping list" of the full needs of the City.

Mayor Sheckler expressed agreement with Councilmember Thomasson, acknowledging that he is not all that familiar with the Arts Program and noted that the Council as a whole has not dealt with this before.

Councilmember Pina noted the amount of money the Art Commission wants is unknown at this time. He felt the Committee could review the dollar amount and make a recommendation to the whole Council as to whether their request is reasonable or not. He felt the Committee level is a good way to get the process started.

MOTION was made by Councilmember Pina, seconded by Councilmember White, to remand to the Finance & Economic Development Committee the review of the need for and possible options to fund a Des Moines Art Commission Public Art Program.

Councilmember Thomasson advised he will vote in opposition as he believes this should be dealt with as a Committee of the Whole. He felt sending this to Committee will create a small advocacy group amongst Council.

Councilmember Kaplan expressed agreement with Councilmember Thomasson that the whole Council should take this up since we are talking about a broad policy on whether or not to commit a certain amount of dollars, and that is a policy question Council should have during budget discussions.

Councilmember Scott noted that if they are trying to plan what the projects, goals and budget might be, it is probably helpful to their process if they have some sense as to where Council stands. She advised she does not mind listening to their ideas, but will want them to tell the whole Council the same things.

VOTE ON MOTION: Motion passed 4 to 3 with Councilmembers Kaplan and Thomasson, and Mayor Pro Tem Sherman in opposition.

Mayor Sheckler noted he sensed a strong message from Councilmembers that he will take into serious consideration.

Consent Item 8 - Interlocal with Highline School District Regarding Mt. Rainier High School Track

Mayor Pro Tem Sherman noted he has some concerns as the agreement does not address how to accomplish the words in Section 2 "use of the Track by the City and its authorized users." He questioned when are the citizens going to use it, how do they have access, and will it be fenced, he felt it is unclear what the City is getting in consideration of our contribution.

Parks and Recreation Director Thorell advised that the Track will not be fenced. She noted if the City wishes to use the Track for programs, we will program that use through the School District and it would be after school hours, evenings and week-ends during the Track season. She pointed out that the contract contains language that the Parks Department and the School District will get together on an annual basis and decide on a schedule. She noted any citizen can use the Track during off hours when no activity is scheduled. She advised that the School District's athletic department at Mt. Rainier High School will maintain the schedule and anyone can call and request a copy.

Councilmember Pina pointed out when the School is out for the summer, the Track is pretty much available at anytime.

Councilmember Thomasson questioned the dollar amount of \$12,000, which includes a \$2,000 request from an organizer of the Project which was needed. He noted that since that request the Mt. Rainier High School Associated Student Body donated the needed \$2,000. He would personally recommend going back to the \$10,000 Council had originally set as a goal for participation. He feels the Contract contains more language than just "here is \$10,000 we want you to have". The Contract has the City "washing" County money. Also he felt the contract should say since we are giving you \$10,000 we do not want you charging us a fee should the City ever want to schedule an event there, instead the Contract sets the City up as co-program managers and he does not feel the City should get in the Track business. He further noted this is a different policy discussion than Council had when discussing whether to donate \$10,000 to the Track project. He questioned how the Agreement grew to become what it became when the original question and decision was a \$10,000 donation.

Parks and Recreation Director Thorell advised Council that the King County Grant requires that for the \$75,000 that the Mt. Rainer High School PTSA applied for, that a governmental agency or a sports agency, other than the School District, is involved. She noted the City signed on when we were asked about applying for the Grant and the Council approved it a couple of years ago. This made the City a co-applicant. Another requirement provides that there must be an agreement between the City and the School District that confirms that there will in fact be public community use of the Track, other than just School District use. She advised the contract

language has gone through the School District's and City's legal departments for review. She concluded that the Contract does not obligate us to do anything, but if we want to do a program, we have the right to do so. Also it provides that if we do a program we will take care of our share of responsibility for cleaning up the facility and monitoring that nothing illegal is going on, and if something is damaged by our program we will be responsible. This is no different than if we allowed the School District to use any of our facilities.

MOTION was made by Councilmember White, seconded by Councilmember Pina to approve the allocation of \$10,000 from the MCI unrestricted balance for the Highline School District Mt. Rainier High School Track Project.

Councilmember Scott advised that her family recently rented a City facility for a function and she assured other Councilmembers that the City has all the right forms to see to it that any user group we allowed to use the Track would absolutely have signed that they would be responsible, and probably made a deposit that is non-fundable, for assuring clean-up.

Upon questioning as why the School District was not the lead agency for the Grant, Parks and Recreation Director Thorell stated that School Districts cannot apply for King County Youth Facilities Grant Funds. It must come from a youth sports organization or a municipality.

Councilmember Kaplan advised he supports the motion as this is an important facility and he personally looks forward to being able use the Track.

VOTE ON MOTION: Motion approved unanimously.

MOTION was made by Councilmember White, seconded by Mayor Pro Tem Sherman, to approve the Draft Interlocal Agreement between Highline School District and the City of Des Moines for the use of the Mt. Rainier High School Track and authorize the City Manager to sign the agreement substantially in the form as submitted.

MOTION was made by Councilmember Thomasson, seconded by Councilmember Kaplan, to amend the agreement by striking Section 6.3.

Upon questioning, City Attorney Bosmans stated that language appears to be surplus to an interlocal agreement.

Councilmember Pina suggested the amendment should be to amend Section 6.3 to say the City understands the School District intends to execute by striking the words "The parties . . ."

Parks and Recreation Director Thorell pointed out that there is no Des Moines Youth Track Program at this time. She noted this program could be developed by the City or it could be developed on its own.

VOTE ON AMENDMENT: Motion passed 5 to 2 with Councilmembers Pina and White opposed.

VOTE ON MAIN MOTION: Motion passed unanimously.

AGENDA REVISION

Due to the lateness of the meeting, Mayor Sheckler questioned whether any Councilmember objected to sending staff home that had the two items under Old Business. There were no objections.

OLD BUSINESS

Midway Planning Project - Briefing and Zoning Code Update - Division 5: General Provisions & Division 2: Zones & Use Tables

MOTION was made by Councilmember Thomasson, seconded by Councilmember Kaplan and passed unanimously, that these two items be rescheduled to another Agenda chosen by the Mayor.

PUBLIC HEARING

Highline View Estates Modified Subdivision - Draft Resolution No. 08-073 & Draft Ordinance No. 08-074 - 1st Reading

Mayor Sheckler introduced the subject and declared the hearing open. He read the Rules of Procedure for conducting the Public Hearing and administered the "Oath" to those individuals who indicated they will testify. He requested Administration describe the matter under consideration.

Land Use Planner II Sullivan informed Council that this modified subdivision will be the last one that will be heard that is under the old Critical Area Regulations. He supplied the following information:

- Location: South of South 240th and 21st Avenue S, basically south of Highline Community College
- Proposed Modified subdivision due to wetlands on the area, there is 168,000 sq. ft. of developable and 11,581 sq. ft. of un-developable land, allowing for a maximum of 23 dwelling units and they have proposed only 21 units
- They are providing for a private park of approximately 5,000 sq. ft., in addition to the Park in lieu fee, with a pedestrian connections to South 240th
- Average lot size is 5,200 sq. ft. and the lot width has been reduced to 50 ft. instead of 60

Mayor Sheckler called for public testimony.

PROPONENTS:

Wayne Jones, Lakeridge Development, P. O. Box 146, Renton

As the developer of the project, Mr. Jones advised that he and his staff will be glad to answer any question. He stated they are in agreement with staff's proposal for the project.

Maire Dhu Lemley, 24126 22nd Place South

Ms. Lemley noted that the prepared Council packet is very thorough and thanked City staff in the Planning Department for being open to her concerns. She stated she has lived on the street for 22 years and has some concerns regarding the birds and small animals living in this undeveloped area. She also informed Council the large number of trees has created a sound and buffer for the neighborhood. Other concerns mentioned were:

- How will the connection be made with the new neighborhood to her neighborhood and how will it look aesthetically

- Will water pressure in the area change
- Questioned the machinery needed, work hours and will they use local streets
- Questioned if homes will be priced reasonably due to slumping market
- Will all the trees be removed

Ivana Halvorsen, Consulting Engineer for Applicant, 18215 72nd Avenue South, Kent

Ms. Halvorsen advised she supports the project and will be available to answer any questions.

Ben Estibal, 24102 22nd Place South

Mr. Estibal noted he is a property owner abutting the proposed site. He noted that previously the City has been responsible for Surface Water Management in the area, and he questioned whether the abutting property owners will be responsible for that service if any property is vacated to those owners.

Robert Armstrong, Consulting Engineer for Applicant

Mr. Armstrong noted he is available to answer any engineering questions.

Mayor Sheckler called for additional speakers three times. There was no response and he inquired of Administration as to whether there has been any misstatements of fact, or if they wish introduce new material or alter in any regards staffs initial recommendation.

Land Use Planner II Sullivan responded to some of the questions raised as follows:

- Animal Impacts - None of the animals living there are considered threatened or endanger species, so there is no existing code regulating this.
- Trees & Birds - As part of the project some trees will be removed, however applicant is required to replace the loss of every significant tree with another one, which will provide additional habitat. In addition they are required to do a wetland mitigation plan which would provide even better habitat for small amphibians and small animals along the wetland than currently exists on the site.
- Grading and hours of operation - Code has specific limits of 8 a.m. to 5 p.m. Monday through Friday, and we will be studying Haul Routes out to S 240th and Pacific Highway South to limit impacts to the neighbors.
- Phasing of the Project to Economic Climate - This is a developers decision. The developer by State law has 5 years to develop the project and apply for a final plat.
- Street Vacation & Drainage - There is an existing drainage line maintained by City's surface water management. The line will stay the property of the City and as part of the vacation an easement of 20 feet in width will be placed on top of that service line to allow the City to have access.
- Water Pressure - The developer was required to get a utility availability from Highline Water District. The District has indicated the water needed to serve this size of a subdivision is sufficient and will not have a negative impact on the pressure or fire flow ability.

Mayor Sheckler inquired as to whether any Councilmembers have questions for staff.

Upon questioning by Councilmember Scott concerning the surface water facility on Tract B, Land Use Planner II Sullivan noted this is a Level II Facility and the design allows for enough

capacity in a large storm event to hold the water and discharge over time. Based on review by the City's Surface Water Engineer there is sufficient capacity as required by the King County Surface Water Design Manual.

Councilmember Thomasson noted that some of his questions may require staff research. He questioned vacating the half block east of 22nd Place South from a neighborhood context and he noted there is nothing in Council's packet that showed the bigger neighborhood streets that would help Council determine whether or not this stretch should be vacated.

Land Use Planner II Sullivan advised that the street has already been vacated by Operation of Law of 1890-1894 as the street was never opened. He noted bringing the vacation to Council is just a simple matter of resolving the title.

Councilmember Thomasson commented that the developer is showing using an existing platted 241st Street and 222nd Street, and some pieces of 22nd Place, by what the Land Use Planner II just indicated, are vacated. Therefore he felt the developer does not have the right to build streets on those.

Land Use Planner II Sullivan stated the Operation of Law has to be 'perfected' either by a Petition to the local jurisdiction or a Quite Title. In talking with the developer, instead of taking the Quite Title route, they choose the Petition method. He noted the right-of-way is still there technically because the vacation has not been perfected through one of the approved methods.

After further discussion regarding the vacation, it was determined to refer this issue for further research and determination to the City Attorney.

Councilmember Thomasson questioned why the City did not take the original wetlands and associated buffers out to calculate the lot area for development, based on the City's sensitive area ordinance.

Land Use Planner II Sullivan commented that once you fill the wetland you are saying it is developable. He pointed out that the wetlands that are there, a majority of them under our new critical area regulations, would not even be regulated as wetlands because they are so small and would be exempt from the criteria.

Councilmember Thomasson requested more information about the methodology of the calculation, and why there was no attempt made to save Wetland A and make it a better wetland as opposed to creating wetland from scratch next to it.

In regards to Wetland A, Land Use Planner II Sullivan responded that the detention would not work. He noted this way the water can flow into the wetland after it has been treated and it also helps with storm issues and floods, as there is an overflow device into the wetland.

Upon questioning by Mayor Pro Tem Sherman, Land Use Planner II Sullivan noted that if this was an ordinary subdivision the City would not have required a recreation area because it is too small to meet the half acre required.

Mayor Pro Tem Sherman noted under a normal subdivision the applicant would only be allowed to have 17 homes, but the City is allowing 21 and he questioned why, especially since there are wetlands.

Land Use Planner II Sullivan responded that the Code the City Council adopted, allows for the calculations. He further noted there are numerous elements that need to be looked at and he is not sure 17 homes would have been the number under a normal subdivision. He advised staff looked at the density, and the density under 7200 is 6.05, excluding roads. He noted the Limited Density Transfer was developed in order to compensate developers for the retention and protection of critical areas. The only time you can modify when comes to lot area under a Modified Subdivision, is if you have critical areas.

Councilmember Thomasson stated it would be helpful to get a better distinction between the densities that are being calculated and requested per the Sensitive Area Ordinance and what is and is not being enabled by the Modified Subdivision. He noted a Modified Subdivision is discretionary at the City Council, whereas the Density Transfer maybe an obligation of the Code, so with the Limited Density Transfer, they would still need to have 7200 square foot lots.

Land Use Planner II Sullivan stated it talks about the number of units, not the square footage of lots. It just states what the maximum number of units shall be.

Councilmember Thomasson requested a better definition of that feature of the Code.

At 10:27 p.m. **MOTION** was made by Councilmember Kaplan, seconded by Councilmember Thomasson to extend the meeting 5 minutes. Motion failed 4 to 3 with Councilmembers Sherman and White, and Mayor Sheckler opposed. (Needs super majority approval.)

Upon questioning about why all the trees are being removed, Land Use Planner II Sullivan noted that the majority of significant trees are being removed because they lay within the street network. The smaller trees are primarily where the home foundations will be.

MOTION was made by Mayor Pro Tem Sherman, seconded by Mayor Sheckler, to continue the Public Hearing to July 3, 2008. Motion passed 6 to 1, with Councilmember White opposed.

NEXT MEETING DATE

Mayor Sheckler noted the next regular meeting will be June 26, 2008.

ADJOURNMENT

At 10:29 p.m. **MOTION** was made by Councilmember White, seconded and passed, to adjourn.

Respectfully submitted,

Denis Staab
City Clerk

ACTION ITEMS FROM MEETING OF 6/12/08

- City Attorney to research feasibility to allow phased development of a preliminary subdivision

- Street Vacations: Using existing platted Streets, vacated by Operation of Law, but not "perfected" by petition or quiet title for Highline View Estates
- Methodology of the calculation of lot area development for Highline View Estates